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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,353	07/28/2003	Dean J. Griffey	023015-0303	6354

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EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT PAPER NUMBER

3742

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,353

Applicant(s)

GRIFFEY ET AL.

Examiner

Joseph M Pelham

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-29 is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-14 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 7-10, 15, 16, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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The Examiner acknowledges Applicants' submission of the amendment filed 12/1/04. Claims 1-29 are now pending.

Claim Rejections - 35 USC § 102

Claims 1, 3, 4, 11, 12, 17, and 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. 3529582 (US'582).

Referring to Fig. 4, col. 3, lines 59-75, and col. 5, lines 21-33, US'582 discloses an oven with an open coil convection heater 102, a fan 47 producing a radial air flow, virtually all of which passes over heater 102. Referring to claims 3, 12, and 19, sensor based control of heating based on a user selected temperature set point is inherent in US'582. Referring to claims 4, 20, and 21, because an inventive purpose of the oven disclosed in US'582 is the airflow entrainment and incineration of cooking byproducts, fan 47 is operated if and only if heater 102 is activated.

Claim Rejections - 35 USC § 103

Claims 2, 5, 6, 13, 14, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US'582.

As discussed above, US'582 discloses a convection oven with door and walls and a fan blowing air radially over a surrounding heating element. While US'582 does not explicitly disclose heater over-temperature sensing means, as recited in claims 5, 6, 13, and 14; nor a plurality of insulating heater supports, such cannot be regarded to patentably distinguish the claimed invention from the prior art, since the former are conventional means for oven safety, and the latter are commonly used to secure a heater in slightly spaced relation to the surface to which it is attached so as to enhance air flow over the heater, and thus heat transfer; hence these would have been considered as a matter of course by the artisan.

Allowable Subject Matter

Claims 7-10, 15, 16, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-29 are allowed.

Response to Arguments

Applicant's arguments with respect to claims 1-6, 11-14, and 17-21 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 7:30 AM to 4:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/15/05

A handwritten signature in black ink, appearing to read 'J. Pelham', written over the date '2/15/05'.

**JOSEPH PELHAM
PRIMARY EXAMINER**